REMARKS

Reconsideration and allowance are requested.

The Examiner's indication of consideration of the information disclosure statement filed on December 17, 2007 is requested.

Claim 9 now stands rejected under 35 U.S.C. §112, first paragraph alleging that the amendments constitute new matter. This rejection is respectfully traversed.

The amendments to claim 9 were added in response to the Examiner's rejection of claims 9-11 stand rejected under 35 U.S.C. §101 for being directed to non-statutory subject matter. The specification describes for example at page 6, lines 8-11: "In one embodiment, the GMLC 2 is a system that comprises at least a computer processor or other processing component and a data store operatively connected to the processing component." Page 8, lines 29-38 explain: "In addition, the invention also extends to computer programs, particularly computer programs on or in a carrier, adapted for putting the invention into practice when executed on a computer. The program may be in the form of source code, object code a code suitable for use in the implementation of the method according to the invention. The carrier can be any entity or device capable of carrying the program. For example the carrier may be a record medium, computer memory, read-only memory or an electrical carrier signal." Emphasis added. So there is clear support for a computer program being embodied in a computer readable medium, and that the program (which is understood by those skilled in the art to include instructions), when executed, causes a computer to perform the claimed method. Withdrawal of this rejection is requested.

Claims 9-11 as amended remain rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Withdrawal of the rejection under 35 U.S.C. §101 is respectfully requested.

1319681

Per a telephone conversation with Examiner Addy conducted on March 27, 2008, Applicants have amended the specification and claims to remove references to carrier and signal with respect to the tangible embodiment of the computer program. Accordingly, claims 9 and 10 are believed to be statutory.

Claims 1-8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2001/0003093 to Lundin in view of newly-applied U.S. Patent 6,125,122 to Favichia. This rejection is respectfully traversed.

Commonly-assigned Lundin discloses a communication system which communicates position requests and information over a communication channel. In response to receiving a position request from a first Public Land Mobile Network (PLMN) over a first communications channel, a second PLMN transmits position information related to the roaming mobile station to the first PLMN, preferably over the same first communication channel. Lundin is completely silent about how the first PLMN selects the positioning protocol to use when making the position request.

Independent claims 1 and 5 recite a method and system for obtaining position of a mobile station by first identifying the current network of the mobile base station and then selecting among at least two positioning protocols for communication of location information with the current network based on the identity of the current network. The Examiner admits that Lundin fails to teach selecting among at least two protocols based on the identified current network, but relies on Favichia for this missing feature.

Favichia states in the abstract that two intelligent nodes negotiate "a protocol between them so that if the intelligent nodes operate at two different protocols ... they can select a protocol appropriate for their communication." What Favichia is describing is really just limited

- 7 -

to one of the two nodes being able to operate using different revisions of the same protocol. The embodiment describes selecting one of revisions Rev C and Rev A of the same protocol IS-41. See col. 3, line 58 and following as well as claim 1 of Favichia.

Although, Lundin teaches the use of a plurality of protocols, such as PRP, IP based protocols etc., only one protocol is used for positioning information. The combination of the teaching of Lundin in view of Favichia would only teach the skilled person in the art to use different revisions of the same protocol, for example two different revisions of PRP or two different revisions of another protocol. But in order to further distinguish the claims from the Lundin and Favichia combination, subject matter from dependent claims 4 and 8 has been incorporated into respective claims 1 and 5. Claim 1 now recites that "based on said identified current network, selecting among at least two protocols including an SS7-based protocol and an IP-based protocol a suitable positioning protocol for communication of location information with said current network." Neither Lundin nor Favichia selects between an SS7-based protocol and an IP-based protocol as a suitable positioning protocol for communication of location information with said current network.
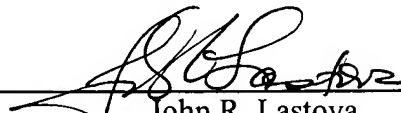
The application is in condition for allowance. An early notice to that affect is earnestly solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____

John R. Lastova
Reg. No. 33,149

JRL:maa
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

1319681